IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORIGINAL SIDE
Review Petition No.29 of 2007
In
Writ Petition No.1133 of 2003

Maker Chambers VI Premises
Co-operative Society Ltd. & anr. Petitioners

Vs.

State of Maharashtra & anr. Respondents

With
Review Petition Lodg.21 of 2007
In
Writ Petition No.1666 of 2005

Maker Chamber V Premises
Co-operative Society Ltd. Petitioners

Vs.

State of Maharashtra & ors. Respondents

With
Appellate Side Review Petition St.No.9135 of 2007
In
Writ Petition NO.6646 of 2003

Bakhtawar Commercial Premises
Coperative Society Ltd. and anr. Petitioners

Vs.

State of Maharashtra & ors. Respondents

Mr.D.H.Khambata Sr.Counsel with Mr.Zal Andhyarjuna and Ms. S. Vedpathak i/b. Maneksha & Sethna for petitioner in R.P.No.29/2007.

Mr.Y.R.Naik for petitioners in R.P.W.Lodg.21/07 and R.P.W.St.9135/2007

Mr.A.A.Kumbhakoni, Associate Advocate General with Mr.K.R.Belosay, Government Pleader and Ms.M.P.Thakur, AGP for State.

CORAM: B.H.MARLAPALLE & J.H.BHATIA, JJ.

April 26, 2007.

P.C.

. By our judgment and order dated 2nd March 2007 a group of writ petitions challenging the validity, legality and propriety of the State Government order dated 1/8/2001 was decided and we have upheld the validity of the said order subject to certain clarifications. These petitions filed on the Appellate Side and the Original Side were also part of the said group and came to be decided by the very same judgment as referred hereinabove.

. These petitioners are the premises Societies in the popular parlance in asmuchas they are the Societies of Commercial Premises and they are not located in any Co-operative Housing Societies. The impugned order dated 1/8/2001 clearly states that it is applicable to only those premises (commercial or residential) which form part of a co-operative housing society and, therefore, the said order does not apply to these petitioners. This has been so clarified even by the State Government in its affidavit-in-reply.

. However, the petitioners claim that based on the order dated 1/8/2001, the State authorities have issued subsequently the orders of recovery or refund as the case may be and they cannot be sustained as the said order dated 1/8/2001 is admittedly not applicable to the petitioners.

. Mr.Kumbhakoni, the learned Associate Advocate General has clarified and stated that the petitioners being the premises Societies the impugned order dated 1/8/2001 is not applicable to them and, therefore, the consequent orders could not have been issued. He also pointed out that the non-occupancy charges as levied by the earlier order dated 9th March 1995 may be applicable to these petitioners Societies. We need not go into this issue.

. The review petitions are disposed off with a clarification that the impugned order dated 1/8/2001 does not apply to these petitioners societies and the consequent orders based on the said impugned order dated 1/8/2001 are hereby quashed and set aside. In case the respondent-officers issue any orders on the basis of the order dated 9th March 1995 regarding the

recovery or repayment of non-occupancy charges, the petitioners are at liberty to challenge the said orders by appropriate proceedings.

(J.H.BHATIA,J.) (B.H.MARLAPALLE,J.)